

of food components, menu items or foods and milk for choice as a reimbursable breakfast, the school must offer all children the same selection(s) regardless of whether the child is eligible for free or reduced price breakfasts or must pay the designated full price. The school may establish different unit prices for each type of breakfast offered provided that the benefits made available to children eligible for free or reduced price breakfasts are not affected.

(m) *What must schools do about nutrition disclosure?* To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less than 70 parts beef, pork, poultry or seafood on an uncooked basis, in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schools to inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (a) of this section) for school breakfasts.

(n) *Implementation timeframes.* All the requirements in this section will be superseded by the requirements in §220.8 beginning July 1, 2013 (SY 2013–2014) with the following exceptions:

(1) Fruits and vegetables component. The fruits and vegetables requirements in paragraphs (g)(1) through (3) will be superseded July 1, 2014; and

(2) Sodium specification. The sodium requirements in (a)(3)(vi) will be superseded July 1, 2014.

[77 FR 4159, Jan. 26, 2012]

#### APPENDIX A TO PART 220—ALTERNATE FOODS FOR MEALS

##### ALTERNATE PROTEIN PRODUCTS

###### *A. What Are the Criteria for Alternate Protein Products Used in the School Breakfast Program?*

1. An alternate protein product used in meals planned under the food-based menu planning approaches in §220.8(g), must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (“When hydrated or formulated” refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs A.2. a through c of this appendix.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers should provide information on:

- (1) The amount by weight of dry alternate protein product in the package;
- (2) Hydration instructions; and
- (3) instructions on how to combine the mix with meat or other meat alternates.

###### *B. How Are Alternate Protein Products Used in the School Breakfast Program?*

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in §220.8. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

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### *C. How Are Commercially Prepared Products Used in the School Breakfast Program?*

Schools, institutions, and service institutions may use a commercially prepared meat or other meat alternate products combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

(Secs. 804, 816, 817, and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773 and 1785))

[Amdt. 18, 39 FR 11249, Mar. 27, 1974, as amended at 40 FR 37027, Aug. 25, 1975; Amdt. 45, 48 FR 195, Jan. 4, 1983; Amdt. 57, 54 FR 13048, Mar. 30, 1989; 60 FR 31222, June 13, 1995; 65 FR 12436, Mar. 9, 2000; 65 FR 26923, May 9, 2000. Redesignated at 72 FR 61495, Oct. 31, 2007; 77 FR 4167, Jan. 26, 2012]

### APPENDIX B TO PART 220—CATEGORIES OF FOODS OF MINIMAL NUTRITIONAL VALUE

(1) *Soda Water*—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60 °F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein.

(2) *Water ices*. As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition.

(3) *Chewing gum*. Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing.

(4) *Certain candies*. Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types:

(a) *Hard candy*. A product made predominantly from sugar (sucrose) and corn syrup which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops.

(b) *Jellies and gums*. A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly beans, jellied and fruit-flavored slices.

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(c) *Marshmallow candies*. An aerated confection composed of sugar, corn syrup, invert sugar, 20% water and gelatin or egg white to which flavors and colors may be added.

(d) *Fondant*. A product consisting of microscopic-sized sugar crystals which are separated by a thin film of sugar and/or invert sugar in solution such as candy corn, soft mints.

(e) *Licorice*. A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root.

(f) *Spun candy*. A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.

(g) *Candy coated popcorn*. Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.

### SCHEDULE FOR AMENDING APPENDIX B

Actions for publication	Publication	
	May	November
Deadline for receipt of petitions by USDA.	Nov. 15 .....	May 15.
USDA to notify petitioners of results of Departmental review and publish proposed rule (if applicable).	Feb. 1 .....	Aug. 1.
60 Day Comment Period.	Feb 1 through Apr. 1.	Aug. 1 through Oct. 1.
Public Notice of Amendment of Appendix B by.	May 1 .....	Nov. 1.

Written petitions should be sent to the Chief, Technical Assistance Branch, Nutrition and Technical Services Divisions, FNS, USDA, Alexandria, Virginia 22302 on or before November 15 or May 15 of each year. Petitions must include all information specified in §§210.15b(b) (1) or (2), and 220.12(b) (1) or (2) as appropriate.

(Sec. 17, Pub. L. 95-166, 91 Stat. 1345 (42 U.S.C. 1779); secs. 804, 816, 817 and 819, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773 and 1785))

[Amdt. 32, 45 FR 6772, Jan. 29, 1980, as amended at 45 FR 72081, Oct. 31, 1980; 45 FR 76937, Nov. 21, 1980; Amdt. 45, 48 FR 195, Jan. 4, 1983; 54 FR 18466, May 1, 1989]

### APPENDIX C TO PART 220—CHILD NUTRITION (CN) LABELING PROGRAM

1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service (FNS) in conjunction with the Food Safety and Inspection Service (FSIS), and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture